SASKATCHEWAN

REPORT

OF THE

OMBUDSMAN

PERIOD 1 JANUARY 1989 – 31 DECEMBER 1989

ISSN 0317-7319

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SEVENTEENTH ANNUAL REPORT

"The Ombudsman's Powers, far from being formidable, are in reality quite limited. The Ombudsman may only investigate, recommend and publicize. His recommendations are binding on no one; he has no power to overrule the decisions of government officials. Nor can he bring a punitive action for official malfeasance. Clearly, he cannot impede the functioning of those with whom he deals.

In my view, the phrase "a matter of administration" encompasses everything done by governmental authorities in the implementation of government policy. I would exclude only the activities of the legislature and the courts from the Ombudsman's scrutiny."

B.C. Dev. Corp. v. Friedmann (SC.C.) [1985] 1 W.W.R. 193, per Dickson, C. J., at p. 216.

REGINA, SASKATCHEWAN
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1990

SASKATCHEWAN OMBUDSMAN 2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan
S4S 0B3

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature, the seventeenth Annual Report of the Saskatchewan Ombudsman, submitted in accordance with the provisions of subsection (1) of section 30 of *The Ombudsman Act*.

Yours sincerely

Gerald P. McLellan
OMBUDSMAN

PART I

OVERVIEW

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Apart from completing two major investigations and coping with the unfortunately extended sick leave of two senior staff, 1989 was basically "business as usual" for my office. There was a slight reduction from last year in both intake and closings — 1,502/1,594 and 1,512/1,599 respectively — but it was still a busy year. Some 450 outstanding files were carried forward into 1990 and since intake, as usual, slightly exceeded closings — 1,599/1,594 in 1988 and 1,512/1,502 in 1989 — this backlog will be with us for yet awhile.

Although there was an overall reduction in complaints received, increases occurred in complaints concerning Corrections (286 to 308), and Social Services (350 to 388). These have been areas of significant increase over the past several years. We received 79 Corrections complaints and 179 Social Services complaints in 1983 and there has been a steady rise in numbers since, reflecting perhaps, increased overcrowding in the provincial prison system and the government's revisions to the welfare system.

Against these increases, complaints relating to Workers' Compensation dropped from 187 to 121, but too much should not be read into this. 1987 showed only 135 complaints and the previous year recorded 183 complaints.

Naturally, we basically deal with what the public brings to us and this will fluctuate from year to year. It is fair to say, however, that complaints to this office are not the sum of citizens' grievances against the government, but I do not have the financial capacity to advertise our service to the people of Saskatchewan. In any event, I could not cope with an increase in complaint load without a corresponding increase to my staff. Being pragmatic, I do not anticipate, nor have I requested, any increase to my staff at this time.

Although it is my business to be critical of government where I see grounds for criticism, my obligation to impartiality compels me to acknowledge the generally positive working relationship between my office and the public service. It is no coincidence that the majority of cases are resolved without the need to proceed to formal

reporting and recommendation. Even where no agreement can be reached with public service officials (as opposed to the political level of government) there is a mutual recognition that our functions are not incompatible.

The political level is another matter entirely and (beating the drum yet again) that is why I strongly advocate the formation of a Standing Committee of the Legislature with power to review the Ombudsman's operations and administration and to give consideration to cases where the government of the day and the Ombudsman cannot reach agreement.

Such Committees now exist in Alberta, New Brunswick and Ontario and, as Ombudsman offices were gradually introduced across Canada so, I imagine, will Standing Committees be gradually adopted by the various provincial legislatures. There is no doubt the Committees have functioned successfully in their respective jurisdictions and there is every reason to believe such a Committee would work just as well in Saskatchewan.

SIGNIFICANT INVESTIGATIONS

This year my office was involved in two particularly significant investigations which resulted in public reports pursuant to Section 30 of **The Ombudsman Act**, which Section provides that the Ombudsman may *inter alia* publish reports relating to any particular case investigated by him.

The reports received considerable distribution and public comment. For that reason, I do not intend to provide a detailed account of the intricacies of the investigations and conclusions but merely a summary for the benefit of the members and the public.

Bosco Homes

On August 15, 1989 the Speaker of the Legislative Assembly tabled my *Special Report* concerning Bosco Homes.

Following an incident involving 3 youths resident at Bosco Homes, the Minister of Social Services had been asked to conduct a public enquiry into perceived and alleged problems at Bosco Homes. This request was declined and subsequently my office was approached by a Member of the Legislative Assembly and others requesting that an investigation be conducted into the care and treatment of wards of the Department of Social Services residing at Bosco Homes.

The investigation subsequently conducted was without doubt the most time consuming investigation ever conducted by this office. All told, some 1,000 person hours were directed to the investigation, research and reporting of this complaint.

Upon completion of the inquiry, I concluded that " . . . the Department of Social Services have not held Bosco Society or Bosco Homes accountable to such a degree that they can say with any degree of certainty that the children they placed at Bosco, received the appropriate care and treatment to which they were entitled" and recommended *inter alia* that the Department of Social Services conduct a full review of the Bosco Program to ensure that it meets the special needs of the children placed at Bosco Homes.

The Minister of Social Services upon receipt of my Report, indicated that a full review of the Bosco Program would be undertaken by his officials. This review resulted in the Department withdrawing those children who remained in the care of Bosco Homes.

The Principal Investigation

On July 2, 1987, the Saskatchewan Superintendent of Insurance suspended the license of First Investors Corporation and Associated Investors of Canada Ltd. following notice from the Province of Alberta that the licenses of these 2 companies would be cancelled effective June 30, 1987.

The companies, subsidiaries of the Principal Group Ltd., and licensed in this Province under **The Investment Contracts Act**, sold investment contracts, an investment vehicle not covered by the Canada Deposit Insurance Corporation. Following their collapse, numerous complaints were received from investors who had little hope of any substantial recovery from the liquidation and distribution of company assets. At the time that the licenses were suspended, the Department of Consumer and Commercial Affairs had the responsibility for enforcing the regulatory provisions of **The Investment Contracts Act**, under which the companies were licensed. My investigation focussed on the regulation of F.I.C. and A.I.C. to determine whether the Superintendent of Insurance, who had direct responsibility and by extension the Government of Saskatchewan, had fulfilled the obligations imposed by **The Investment Contracts Act**.

My investigation concluded that the Superintendent of Insurance had placed undue reliance on the Alberta regulators and, thus, had not fulfilled the obligation and duties imposed on him by the legislation. In consequence of that finding, I recommended to the Minister of Consumer and Commercial Affairs that the Saskatchewan Government " . . . should act to bring the investors recovery from company and provincial government sources to 90 per cent of the value of their investment as at July 2, 1987 — the day the F.I.C./A.I.C. licenses were suspended in Saskatchewan . . . ".

I regret to report that my recommendation has not been implemented and the Provincial Government has declined to pay any compensation to Saskatchewan investors.

NATIONAL OMBUDSMAN CONFERENCE

The 1989 annual conference was hosted by the Protecteur du Citoyen, M. Daniel Jacoby, in Quebec City from October 30 to November 1, 1989. The theme of this year's conference was "And What About People?"

As our society and governmental organizations change, so too must the role of the Ombudsman. Topics debated at this year's conference included an examination of the systemic approach to investigations, the relationship of the Ombudsman and the media, and the role that can or ought to be played by the Ombudsman in light of The Charter of Rights and Freedoms.

BUDGET

The following table shows the approved budget for the 1989-90 financial year and comparisons with preceding years, and is presented for the information of the members.

	1987-88	1988-89	1989-90
Salaries	$500,700	$503,200	$555,800
Travel and Sustenance	16,110	18,000	14,900
Other contractual services*	148,775	136,300	141,525
Material, supplies and equipment	9,415	8,800	10,075
TOTALS	$675,000	$666,300	$722,300

* These figures include monies allocated to our budget from the Saskatchewan Property Management Corporation for rental of accommodation, and postal and photographic services.

The modest increase over the previous financial year's budget was to offset salary increases and performance pay that were authorized by Cabinet, and additional monies allocated to the Property Management Corporation.

Although our budget is already very modest, restraint is a reality for us as for everyone else in government. To this end we have targeted a 17% reduction in travel and sustenance costs and have limited other codes to cover only actual cost increases. Any additional cost cutting would materially affect public access to the office and our ability to effectively deal with our investigative caseload.

STAFF

It is my privilege once again to publicly thank my staff for their consistent effort and dedication throughout the year.

1989 saw some changes in personnel, both permanent and temporary. Investigator Glenda Cooney in Saskatoon took a leave of absence from June 17 to March 31, 1990 to work as acting Regional Director of Intergovernmental Affairs — Prairies, with the Solicitor General Secretariat. Her position has been most ably filled by Ms. Linda Charlton. Investigator Bob Smerchinski from the Regina office left on October 15 to take up a new position as Deputy Director — Security at the Regina Correctional Centre. Also in Regina, Roy Hodsman was taken on as a temporary Investigator effective June 26 due to the extra work involved in the Bosco Homes case and has continued with us since October 15 as a temporary replacement for the vacant Investigator position.

On the staff support side Clerk Typist Megan Heath started a six months leave of absence in November and Myrna Lapchuk is filling in for that period.

REGINA

Gordon K. Mayer	Solicitor to the Ombudsman
Earl A. McKeen	Assistant to the Ombudsman
Murray Knoll	Investigator
Roy Hodsman	Investigator
Carol Spencer	Intake Officer
Debra Trembley	Executive Secretary
Myrna Lapchuk	Secretary
Megan Heath	(on leave of absence)

SASKATOON

Gil Thomson	Assistant to the Ombudsman
Joni Sereda	Investigator
Linda Charlton	Investigator
Laura Cook	Intake Officer
Joyce Strate	Secretary
Glenda Cooney	(on leave of absence)

PART II

CASE SUMMARIES

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CASE SUMMARIES

EDUCATION

File No. – 89-7000-10-20

Often times, complaints against the government are the result of simple oversights or failed communications and can be easily resolved. The following is an example of one such complaint.

In September, 1988, the Department of Education provided the complainant with a $1,500 student loan for the 1988/89 academic year. Soon after the complainant finished the academic year, the Department re-assessed her application and decided that the loan had been granted in error. Therefore, the loan would be treated as an over award. Consequently, the loan would not be eligible for any special benefits, such as interest relief or forgiveness. (In Saskatchewan the provincial government subsidizes interest above 9% due on student loans over a certain amount.) Furthermore, the over award would be deducted from any future student loans and the complainant would only be given the balance, if any.

The complainant, who had planned to attend university for the 1989/90 year, could not afford to continue her studies without financial help, which she was effectively being denied. Her appeal of the Department's decision was unsuccessful, so she called the Ombudsman.

We notified the Department of the complaint and arranged to speak to the official in charge of loans. Before our meeting with the official, the Department re-assessed the complainant's 1988/89 application using new income information she provided and discovered that although she was not entitled to $1,500 she was entitled to $1,000. To the Department's credit it decided to overlook the error and treat the entire $1,500 as a normal student loan. A simple and judicious resolution.

FINANCE

File No. – 88-11000-10-18

Late in the fall of 1988 my office was contacted by a special liquor vendor from a rural Saskatchewan location. He informed my office

that he had recently discovered he had been overpaying his liquor consumption tax for the past eight years. He advised that his total overpayment had been approximately $41,000. Upon discovery of the overpayment, the Department of Finance had refunded approximately $9,100, representing the last three years of his overpayment. However, he was informed that the legislation did not permit a refund of the overpayment portion for the previous five years (approximately $32,000). Our complainant believed that he should be entitled to a full refund of the entire overpayment.

Investigation of this matter confirmed that the facts were exactly as outlined by our complainant. Officials at the Department of Finance referred to Section 56 of **The Department of Revenue and Financial Services Act** which prevented them from making any refund beyond the period of three years. From a legal perspective, the Department considered they had met their obligations. Further, the Department noted that similar time restrictions existed throughout Canada with respect to overpayment of taxes. Exceptions were only permitted when authorized by an Order-in-Council.

After reviewing the legislation, I was satisfied that the Department had responded properly, in the context of the legislation. At the same time, it certainly seemed unfair for the government to benefit from the special liquor vendor's error in submitting his taxes. I therefore recommended that the Department take the necessary steps to obtain an Order-in-Council, allowing the Department to refund the overpayment.

I am pleased to advise that my recommendation was accepted by the Department of Finance. The Department agreed to conduct an audit dating back to the commencement of the overpayment. I am informed that as a result of this audit, the special liquor vendor received a refund of approximately $32,000.

HEALTH

File No. – 89-13000-10-04

The complainant, a social assistance recipient, called the Ombudsman after the Supplementary Health Services Branch of the Department of Health refused her request of payment for crown work on one of her molars. She was convinced she had been treated unfairly.

In Saskatchewan, social assistance recipients unable to pay for health services not covered by the Health Services Card, which entitles Saskatchewan residents to a wide range of insured health services, are eligible for a Supplementary Health Card.

Under the Supplementary Health Benefits Regulations "dental services toward which payment will be made are limited to those services which are essential for the maintenance of health". Furthermore, "the minister may designate certain types of services as being those for which no payment will be made".

Our investigation disclosed that the complainant's molar had a large filling and the surrounding tooth was weak. Her dentist told us that if the surrounding tooth broke, crowning might not be possible depending on the nature of the break. If crowning could not be done, the tooth would have to be extracted. Under the circumstances, the dentist advised that getting a crown would be a wise precaution.

Although crown work might have been advisable for the complainant, we concluded that it was not essential to the maintenance of her health. In any event, we learned from a discussion with Health Department officials that whereas crown work for anterior teeth was at one time paid for by Supplementary Health Benefits, crown work for posterior teeth had never been covered.

The complaint could clearly not be substantiated. Although the complainant was disappointed with the results of our investigation, in the end she was satisfied that she had been dealt with fairly.

JUSTICE

File No. – 89-2000-10-07

On occasion our office is able to assist individuals even though we do not support their complaint. In this case, Ms. R. had come to an agreement with the Provincial Mediation Board to pay off debts she had incurred. She understood that tax arrears owed to Revenue Canada took priority over other creditors. Ms. R. made payments and withdrew from the program believing her indebtedness to Revenue Canada was satisfied. She was extremely upset when approached by officials from the Federal Tax Office advising a substantial portion of the tax arrears remained unsatisfied despite

collection by the Provincial Mediation Board. Ms. R. was facing garnishee of her wages at the time she contacted our office, complaining that the Provincial Mediation Board had failed to remit all of her payments to Revenue Canada.

Our notice letter to the Provincial Mediation Board prompted a very thorough review, and produced a detailed accounting and cancelled cheques showing all the payments received from Ms. R. had been remitted to Revenue Canada, as required. In addition, the Board staff had contacted Revenue Canada, prompting an internal audit in the tax system.

Ms. R., although her complaint about the Provincial Mediation Board was not substantiated, was very pleased as she had verification of the payment of her tax arrears and was no longer facing garnishment of her wages.

File No. — 89-2200-00-12

On July 4, 1989, the Rentalsman ordered the complainant to return a former tenant's security deposit of $100 plus $4.50 interest. The Order was issued because the complainant had failed to deliver the security deposit and required documentation to the Office of the Rentalsman within the prescribed fifteen days after giving a notice of claim to the tenant. The complainant was convinced that if he returned the damage deposit, for which he believed he had a legitimate claim, he would never be able to recover it.

One week after receiving the Rentalsman's Order, the complainant went in person to the Rent Appeal Commission with a letter explaining why he felt he was entitled to the damage deposit. He asked the Commission if it would hold the $104.50 until the matter was settled, but the Commission told him it had no authority to do so and the complainant would have to return the money to the tenant before the Commission would hear his appeal. The complainant then went to a lawyer. The lawyer told him that the legal fees would be too high and advised him to call the Ombudsman.

Although the complainant did not seem to have a valid complaint, we agreed to investigate to ensure that he had been dealt with according to the law.

Our investigation disclosed that the tenant vacated the premises on February 28. The complainant presented the tenant with a Notice of

Claim on March 5, but the tenant did not accept the claim and the complainant failed to submit the damage deposit along with the required documents within fifteen days of serving the Notice of Claim. On April 6, the tenant filed an application with the Rentalsman requesting a return of his damage deposit. In response to the tenant's claim, the Rentalsman ordered the complainant to return the damage deposit.

We concluded that the complainant had been dealt with according to the law. We also noted that in his Order the Rentalsman had agreed to accept an application for an Order from the claimant, but only after the complainant had returned the tenant's damage deposit. We informed the claimant of this provision and advised him to return the damage deposit forthwith. Satisfied that he had been treated fairly, the claimant agreed to comply with the Rentalsman's Order.

PARKS, RECREATION AND CULTURE

File No. – 89-22000-10-08

In Saskatchewan, landowners whose property is damaged by wildlife can apply to the provincial government for compensation. The government will pay for 75% of the assessed damage to a maximum of $2,500. In cases where standing crops are damaged, the loss is assessed at harvest.

Our complainant's winter wheat crop had been damaged by a large herd of antelope that had been grazing on it throughout the winter. The following summer our complainant lost his crop to drought. His application to the Saskatchewan Crop Insurance Corporation for compensation was accepted but his application to Saskatchewan Parks, Recreation and Culture for compensation under its Wildlife-Landowner Assistance Program was rejected. The complainant knew that his crop had suffered considerable wildlife damage and could not understand why the government had refused to compensate him. He asked us to investigate.

We discovered that large herds of antelope in the general area of the complainant's farm were indeed damaging some crops. The Department of Parks, Recreation and Culture, however, had never denied that our complainant's winter wheat had been damaged by grazing antelope. The issue was whether or not the complainant had suffered crop loss because of wildlife depredation. The Department contended that the complainant's crop losses were

entirely due to drought, that is, the crop would have been lost even if there had been no wildlife damage. The Department's contention was supported by the experience of other farmers in the area who had not had any problems with grazing antelope and yet had suffered total crop failure because of the drought.

The issue in this case was confused somewhat by the fact that the complainant's crop insurance only covered 70% of his loss. The complainant argued that the Department of Parks, Recreation and Culture should cover all or part of the remaining 30% since his crop had clearly been damaged by wildlife. One can imagine how this might seem to be a compelling argument, but it avoids the real issue, which is whether or not the complainant suffered any crop loss due to wildlife damage.

We concluded that the Department of Parks, Recreation and Culture's decision was fair. Unfortunately in this case, despite our efforts to explain the Department's reasoning to the complainant, the complainant remained unconvinced that he had been dealt with fairly.

SASKATCHEWAN GOVERNMENT INSURANCE CORPORATION

File No. – 89-26000-30-95

Mr. F. found himself holding the "financial" bag after putting his car for sale on consignment. The sequence of events started when the consignment dealer took Mr. F.'s vehicle to a second dealership, where it was sold. Although Mr. F. had financed the car and his bank had registered a personal property security agreement (a lien), the second dealer failed to check the liens, and refinanced the car, relying on the consignment dealer's word that the car was free and clear. The consignment dealer went bankrupt and the second owner totalled the vehicle. S.G.I. paid out a claim to the second financier and the surplus to the second owner, without checking the liens on previous registrations.

Thus, Mr. F. was left with no vehicle to seize and no consignment dealership to sue, as that company went bankrupt. He turned to my office for assistance. Subsequent to our notice letter, S.G.I. agreed that their omission in failing to check prior liens made them legally obligated to reimburse Mr. F. in the amount of his bank's previous interest in the car.

Needless to say, Mr. F. was satisfied with the result.

File No. — 89-26000-30-78

A resident of rural Saskatchewan complained to my office that Saskatchewan Government Insurance (S.G.I.) was not offering proper settlement for his damaged satellite dish, which his dealer had told him was beyond repair. S.G.I. was prepared to pay only for the replacement parts, even though it was acknowledged that no replacement parts were available.

Review of the S.G.I. claim file confirmed that the dealer had submitted an estimate of repair cost at $644.22 for this particular satellite dish. Replacement cost was estimated at $1,156.87. The original statement indicated "parts not available". On this basis, S.G.I. had concluded that the satellite dish could be properly repaired, if the parts were available. As the insurance policy did not provide coverage for obsolescence, S.G.I. maintained that they were only responsible for the cost of repairs — even though the repair parts were not available.

Our complainant suggested that this satellite dish was in effect, damaged beyond repair. He stated that the dealer could not guarantee that the dish would perform properly, even if the repair parts were available. This position contrasted with that of S.G.I., as S.G.I. took the position that the dish could be easily repaired — if the parts were available.

In order to obtain a somewhat impartial perspective as to the possibility of successfully repairing this satellite dish, my investigator contacted a major repair company in the city of Regina to obtain their opinion. This dealer suggested that he might be able to obtain the required parts for this satellite dish and expressed optimism that it could be adequately repaired. At the same time, he also agreed that the owner of this satellite dish would probably be better off to accept a cash settlement and purchase a new satellite dish — to ensure the best possible performance.

My investigator then contacted our complainant once more, to obtain additional information about the exact dimensions of some of the damaged parts. At this point, the complainant confirmed that he had recently taken this satellite dish down from its stand and now observed that the damage was even greater than initially anticipated. Instead of only the bottom five struts being damaged, he was now of the view that all eight struts were damaged.

At this stage, my investigator suggested to the complainant that he contact S.G.I. to provide this additional information. Somewhat to his surprise, within less than one week our complainant called my office to confirm that S.G.I. had already issued him with a cheque for full settlement of his claim, now acknowledging that the satellite dish was a total loss.

Thus, the latter was brought to a successful conclusion and our complainant was able to purchase a new satellite dish.

SASKATCHEWAN HOUSING CORPORATION

File No. – 89-19050-00-01

Usually, disgruntled complainants will accept a government decision if it is supported by an independent and impartial third party, in this case, the Ombudsman.

In May, 1987, the complainant applied to the Saskatchewan Housing Corporation for a matching grant under the Corporation's Home Improvement Program, which paid one-half the costs of home improvements to a maximum of $1,500. After the complainant's application had been approved, he submitted two invoices, dated August 11, 1986, and August 29, 1986, totalling $2,147. The Corporation subsequently sent the complainant a cheque for $1,073.50 (half the cost of improvements).

In August, 1988, almost a year later, the Saskatchewan Housing Corporation sent a letter to the complainant asking him to return the grant money because the invoices for the improvements were dated prior to September 1, 1986, the Home Improvement Program's commencement date. In lieu of a return of the grant money, the Corporation indicated it would accept replacement invoices totalling $2,147. The surprised complainant asked for further explanation. Although the Corporation again tried to explain that the grant had been issued in error, the complainant was not convinced that he should have to return the money. A few months later, the complainant asked the Ombudsman to investigate.

Our investigation disclosed that the two invoices were indeed dated prior to commencement of the program. One invoice, in fact, was for an improvement not covered by the Home Improvement Program.

Although the Saskatchewan Housing Corporation's request for a return of the grant money probably caused the complainant some inconvenience, the request was not unreasonable, especially considering that the Corporation agreed to accept new invoices in lieu of a straight return of the money.

The complainant decided to accept the Corporation's decision in light of our investigation and began submitting new invoices.

SASKATCHEWAN TELECOMMUNICATIONS

File No. – 89-25000-10-09

Sometimes disputes can be resolved by placing the issue in a larger context. In the following case a farmer withdrew his complaint when he discovered that he had been treated the same, if not better, than all of his neighbours.

Prior to 1988 Sask Tel customers in the Avonlea area sixty miles southwest of Regina (indeed, customers in most of rural Saskatchewan) had to tolerate the inconvenience and often times annoyance of party telephone lines. Then in late 1988 Sask Tel decided to provide its customers in the Avonlea area with private telephone lines. To do this Sask Tel laid miles of underground cable running from farm to farm in the country and house to house in the towns. In the country the cable was placed in a trench by a splitter plough pulled by a caterpillar tractor.

The process normally caused only marginal damage to the land, but farmers who contended that the damage to their land was significant could arrange to meet with a Sask Tel damage claim contractor. The contractor's job was to facilitate the claims process without influencing the size of the claim. Sask Tel officials would decide if a claim was reasonable or not.

Our complainant entered a claim for $178 to cover the costs of restoring and levelling his land (which was in summerfallow), picking rocks, and repairing fences. Sask Tel offered only $98. The complainant thought he had negotiated his claim with the damage contractor and did not think someone at the head office in Regina should be able to alter it. After trying unsuccessfully to persuade Sask Tel Office to reconsider, the complainant contacted this office.

In response to our request for information Sask Tel supplied us with the names and claims of all the farmers affected by the Avonlea project. Most farmers had claimed nothing for damages. Farmers claiming for damage to land under crop were paid an average of $150. Sask Tel did not normally pay for damage to summerfallow but where it did, it paid an average of $50. Out of the 170 landowners affected by the project Sask Tel had received only 2 complaints.

We contacted our complainant and told him what we had discovered. He insisted that the $178 was not an unreasonable claim, but in light of the compensation his neighbours were receiving without complaint, he agreed to accept Sask Tel's offer. We suspect that he decided that if his neighbours were willing to co-operate with Sask Tel in exchange for a much needed service, so would he.

File No. – 89-25000-10-12

Liability and responsibility are often at the root of many of our complaints, as in this case.

Mr. W. contacted my office after being billed for calls made on his phone by a neighbour. Mr. W. allowed the neighbour to use his phone because he had a Calling Card. This card is similar to a credit card, providing the user an ability to charge telephone levies to an account. However, at the time Mr. W. gave permission to his neighbour, he was unaware the card was invalid. Therefore, all the calls were charged back to Mr. W.'s phone bill.

Sask Tel's policy (General Tariff) states that their subscribers are responsible and liable for all telephone charges resulting from the use of their phone.

While I agree the major responsibility for control over telephone usage lies with the subscriber, in this instance the wording on the back of the Calling Card troubled me. There is nothing on Calling Cards to indicate any expiry date and no way, short of enquiry with Sask Tel, of verifying if a card is still in service. The back of the Calling Card also states the Cardholder is responsible for all charges for its use.

This position was put forward to the Corporation and they agreed that since they had not reclaimed the neighbour's Calling Card, and

Mr. W. had relied on the wording on the back of the card which made the Cardholder responsible for its use, they would deduct any charges billed back to Mr. W.'s phone.

However, I remained concerned that at the time of receiving the complaint, the Corporation could not verify whether the Calling Card was valid at the time calls were placed. Obviously there would be times when cards are lost or stolen, and with no control over these invalid cards prior to calls being placed, the system is open for abuse. Sask Tel have advised they are modernizing their system to enable them to verify virtually all Calling Card calls.

SASKATCHEWAN WATER CORPORATION

File Nos. — 87-8200-10-09 and 88-8200-10-02

In the late fall of 1987 and in early spring of 1988, two farmers from northeastern Saskatchewan approached my office with drainage problems involving one of their neighbours. Both farmers had filed formal complaints with the Saskatchewan Water Corporation (S.W.C.) several months earlier, but were concerned that no action was being taken with respect to investigation of their complaint. In fact, they brought photographs demonstrating extensive ditching which was continuing, even after their complaint had been filed.

Given the legislative mandate of my office, I attempted to make it clear to both of these farmers that I could not investigate a complaint against their neighbour. Instead, my office could only focus upon the government agency, in this case the Saskatchewan Water Corporation. As the Saskatchewan Water Corporation had not yet concluded their review, I could not actually investigate their decision. However, given that the complaints had been filed several months earlier, and no apparent action had yet been taken by the Saskatchewan Water Corporation, and in the face of recent photographs demonstrating ongoing "illegal" ditching, my office decided to investigate the allegation of "unreasonable delay" by the Saskatchewan Water Corporation in their investigation of the original complaints.

Previous investigations conducted by my office had confirmed specific legislative deadlines for .the Saskatchewan Water Corporation in rendering its decisions. Specifically, Section 66(b) of **The Saskatchewan Water Corporation Act** provides that the Saskatchewan Water Corporation shall "(b) by itself or by its

servants or agents, inquire into and investigate the complaint and, not later than eighteen months from the day on which it receives the complaint, render its decision."

Investigation of the files confirmed that both complaints were formally lodged on May 20, 1987. However, when my investigator first met with officials at the local office of S.W.C., on May 4, 1988 it was confirmed that "no action" had yet been taken with respect to investigation of these complaints, due to a lack of available funds. It was noted that additional money was now available in the new budget year which would probably be sufficient for investigation of six formal complaints (out of an existing list of 23 formal complaints). My investigator was informed that our two complainants were in the group of six that were designated for formal investigation by a private engineering firm.

Our office received confirmation later in May of 1988 of the firm that had been named to conduct these investigations. The firm was requested to provide their final investigative report and recommendations by November 30, 1988.

Given the appointment of this private engineering firm, it now appeared to my office that S.W.C. would be able to render its decision within the legislated period of eighteen months. However, I was still concerned that twelve full months had passed, before anything had been done with respect to investigation of this complaint. Further, there was every indication that other complainants were also being required to wait excessive periods of time before their complaints were investigated. I therefore wrote to the President of the Saskatchewan Water Corporation in September of 1988, bringing my concern to his attention.

Our office promptly received a response from the President of S.W.C. in early October, assuring us that the consultant engineers were proceeding with investigation of these two complaints and that the report should be available before November 30, 1988. We were assured that once the investigations were complete, Saskatchewan Water Corporation would render its decision.

Ultimately, decisions were rendered in both cases, just prior to the expiry of the eighteen month deadline. In both instances, decisions were rendered in favour of our complainants. This effectively resolved the complaints which had been filed with my office.

Some additional dialogue occurred between the President of S.W.C. and my office concerning the overall backlog of complaints for formal investigation by the Corporation, and financial restraints. Statistics provided by S.W.C. confirmed a backlog of unresolved formal complaints dating back to July 1, 1984 when the Corporation was formed. Over recent years they had made progress in reducing this initial backlog substantially. Nonetheless, a significant backlog did remain but S.W.C. had assigned priority to further reducing the backlog.

The President explained that the program of formal complaint resolution was having a significant impact on the Corporation due to the relatively large numbers and the major amount of time and resources required to properly investigate the complaints. Some delays were the result of the need to inspect drainage areas during a period of spring runoff. Additionally, the focus of resolving drought problems had also assumed some priority over the resolution of long standing drainage complaints.

In these overall circumstances, I was satisfied that S.W.C. was devoting significant priority to reducing their overall backlog of complaints. The legislative time restraints were met with respect to the farmers that had approached my office.

SOCIAL SERVICES

File No. – 88-23000-10-11

A youth, serving time in a juvenile facility, complained to my office about the loss of his personal property. The property, a portable stereo, had been confiscated by staff and placed in a locked storage area. The storage room had been broken into and the stereo was stolen.

Initially the Centre refused to compensate the youth, pointing out some valid concerns. Firstly, the youth had the stereo confiscated because of poor behaviour, and later that same day went unlawfully at large, raising staff's suspicion he was responsible for the "theft" of his own stereo. He was later "captured" and then made his claim. Secondly, all youth are required to sign a waiver stating the Centre is not responsible for any property "retained" by residents that is lost, stolen or damaged.

However, our investigation noted that two other youth had also gone at large between the time the stereo was put into storage and the theft was discovered. In addition, other youth had been discharged during this time. The stereo in question was an expensive model — and quite desirable. The storage area, although locked, was easily accessible through outside windows, and anyone could have been responsible for the theft. Secondly, the waiver identified the Centre was not responsible for property "retained" by residents, but items in locked storage were not identified on the waiver form.

This position was put to the Department officials who conceded responsibility for the loss. A new stereo was purchased for the youth. In addition, the storage area was moved to a more secure area with no "window" access. In addition, the directives, re: personal property of youth were finalized to clarify the rules about personal property in all youth offender centres.

The fact that the youth was an inmate and had gone unlawfully at large did not diminish the Centre's responsibility for the security of property in the Administration's custody.

My office is pleased, not only in the outcome for this youth, but in the steps taken to prevent more losses and to clarify with youth at all Centres the policy on inmates' personal property.

File No. — 89-23000-40-203

In early June of 1989, my office received a complaint from a recipient of benefits under the Saskatchewan Assistance Plan (S.A.P.) involving a new practice of issuing two social assistance cheques on a monthly basis, instead of one. The complainant stated that one-half was issued at the first of the month and the balance was issued at the middle of the month. She argued that this created problems as her full rent and utilities had to be paid at the first of the month, leaving only a small amount for groceries until the second cheque arrived in mid-month. She believed this new system of two cheques being issued instead of one made her budgeting of limited financial resources even more difficult.

Upon receipt of notice of our intention to investigate this complaint, the Deputy Minister of Social Services provided my office with the rationale to this new policy of issuing semi-monthly cheques.

"The practice of issuing cheques twice monthly was implemented in June, 1989, primarily to assist families with children in budgeting their needs more effectively. Many recipients have expressed a desire for such payments because of difficulties encountered in managing allowances paid only once per month. The Department is also interested in ensuring that funds are available for food and other basic needs throughout the month.

At this point in time, the practice applies to family cases with dependent children whose social assistance allowance, excluding shelter, utilities, special needs and recoveries, is at least $100. Those who are under trusteeship or who reside in room and board or institutional care situations are not included.

Cases which meet the criteria receive their allowance in two disbursements each month. The first disbursement is issued at the beginning of the month and provides full shelter and utilities allowance, special needs, adjustments to previous benefits and one-half of the basic allowance. A second issue is made in mid-month for the balance of the social assistance entitlement. Clients who buy groceries in bulk or who have other urgent financial commitments can request to have a greater portion of their allowance applied to their first of the month cheque. However, the mid-month cheque must be in an amount no less than $50. This is intended to ensure that at least a portion of the entitlement is available for families to meet food and other basic requirements."

Shortly after receipt of this explanation, our client contacted our office to confirm that her entitlement had now been adjusted in accordance with this policy. Now, she was receiving all of her allowance, except for $50. Our client was satisfied that this would restore her ability to manage her finances in an effective manner.

File No. — 88-23000-20-12

A fifty-eight year old woman who had been adopted at the age of six months approached my office seeking assistance in obtaining information about her natural mother. The lady had obtained information from the Department of Social Services, but the information provided to date had not been sufficient to enable her to determine the precise whereabouts of her mother or even confirm whether she was still alive. She complained to my office that the Department had not provided all relevant information to herself.

Adoption records are considered strictly confidential. As such, even my own investigative staff was required to obtain approval from the Minister of Social Services in order to obtain access to this lady's adoption records. Once access was provided, it became apparent that the adoption records established in approximately 1930 contained little in the way of detailed, background information. Further, there had been no contact from the mother since the child had been given up for adoption in 1930.

By the time my staff reviewed this adoption file, it became clear that the Department had conducted a further internal review of the adoption record. The Department had identified some additional information that they were now prepared to provide to our complainant. Additionally, Social Services was seeking approval from the Department of Health — Vital Statistics Branch, with respect to releasing some confidential information obtained from the Department. Subject to receipt of this approval from Vital Statistics, the Department of Social Services was prepared to provide this additional information to our complainant.

After a relatively brief delay, approval was obtained from Vital Statistics to release information concerning the natural birth mother — her place of birth and the number of her natural children.

The Department of Social Services then provided all of this additional information to our complainant. Given the advanced age of the birth mother (100 years), it was doubtful that she would still be alive or that our complainant would be able to contact her. Nonetheless, by providing all relevant information to the complainant, the Department of Social Services had done everything in their power to assist our complainant.

File No. — 88-23000-40-169

It is an unfortunate reality that people who are severely disabled have little or no opportunity to contact my office directly when they are encountering a problem with government. Generally, complaints involving disabled people are brought to my office by one of their friends or relatives, by a government employee involved with that individual, or by one of the advocacy agencies, such as the Saskatchewan Association for Community Living (previously known as the Saskatchewan Association for the Mentally Retarded). In this particular case, it was a representative of S.A.C.L. that initially brought this complaint to my attention.

The complaint involved a forty-four year old severely disabled male person who had been charged with a criminal offence. This man resided in a urban center in a group home situation and was employed in a sheltered workshop. A social worker from the Community Living Division of Social Services had been assigned responsibility for the case on an ongoing basis.

The allegation made to my office was that the disabled person had appeared in court without legal representation and had been remanded in custody to the Regional Correctional Centre without having had any opportunity to consult with a solicitor. Although this individual did have a brother residing in the same city, neither the brother nor the group home operator had any knowledge of his court appearance or incarceration, until after he had been remanded in custody.

The representative of S.A.C.L. was of the view that the social worker had failed his client in at least two respects. Firstly, a behavioral problem had been identified with this man several years earlier and it was not felt that any treatment program had been initiated by the social worker. Secondly, it was believed that the social worker had advance knowledge of the impending arrest and therefore had a responsibility to contact a Legal Aid Office on the man's behalf.

By the time my investigation commenced, the initial trauma of the case had passed. After being incarcerated at the Regina Correctional Centre for two days, the man had appeared in court, was represented by Legal Aid and was released on his own recognizance. Approximately six weeks later a "stay of proceedings" concluded the issue of the court charges. The man returned to the same group home and resumed his previous placement at the sheltered workshop.

Our review of departmental files confirmed involvement with this client dating back only four years. Prior to that time, the man had lived with his elderly mother and had virtually no "formal relationship" with staff of the Department although he was well known within that community.

File review confirmed that departmental staff had previous knowledge of the man's behavioral problems. In fact, various warnings had been issued to him and attempts had been made to discourage the behavior which was creating problems. There was

some concern that he may not have understood the seriousness of his behavioral problem.

The incident which resulted in criminal charges being laid served to confirm that Department efforts had not succeeded. However, up until that point, there had still been some optimism.

At the time my office initiates any investigation, we always have the advantage of "hindsight". It is relatively easy for us to conclude that a particular plan or initiative was insufficient, after it is a confirmed failure. However, we attempt to evaluate any particular plan from the perspective of the Department when the plan was initially developed. We then attempt to view the adequacy of the Department's actions and reactions over a period of time, rather than simply evaluate the final outcome.

In this case we were satisfied that the efforts taken by the Department — up to that time had been adequate and reasonable, given the circumstances known to the Department. Although the initiatives which had been taken were ultimately not successful, I could not find the Department at fault in this regard. At the same time, departmental staff readily agreed that new initiatives were required and the Department expressed a willingness to work with the man's immediate family to develop the best possible treatment plan for remedying the identified behavioral problems.

I should point out that dealing with behavioral problems is an ongoing challenge for the Community Living Division of Social Services. Certainly, in the case of this particular client, these efforts remain ongoing, and success can never be fully guaranteed.

The matter of this client having appeared in court without legal counsel was of some concern to my office. Investigation confirmed that the social worker did indeed have advance knowledge that the client was about to be arrested, and accompanied police when the man was arrested. The worker did attempt to contact the man's brother and the group home operator, without success, and had similar difficulty with trying to contact other immediate family members. It seems, in consequence, that the worker decided to accompany the police to ensure some measure of support to his client.

The man was arrested while at the sheltered workshop and it appears as if police had arranged to arrest him just prior to court.

Thus, he proceeded directly from the sheltered workshop to the courthouse and appeared before the court, virtually immediately. The social worker, perhaps somewhat naively, had assumed there would be an opportunity to consult with Legal Aid prior to the actual court appearance. However, the man had been processed through the court and remanded in custody before Legal Aid became aware of the charges against him. Thus, although Legal Aid was familiar with this particular individual, they had no opportunity to consult with him or to represent him until after he had been remanded in custody.

Officials at the Legal Aid Office are convinced this man could have been released on his own recognizance, without having been remanded at the Regina Correctional Centre, if a lawyer had been able to consult with him prior to his appearance in court. The fact that Legal Aid was able to obtain his release from custody two days later lends support to this argument. The question which then remains is — "Why was Legal Aid not contacted, prior to the man's court appearance?" I agreed with the Saskatchewan Association for Community Living and our complainant's brother, that the social worker did have some responsibility to contact Legal Aid on behalf of the client. However, I was also of the view that the local police authorities and the local courts could/should have some responsibility in this regard. Unfortunately, my office does not have jurisdiction with respect to either the police or the courts and thus I was unable to make any specific recommendations to these agencies.

I did make a formal recommendation to the Department of Social Services on this case, that their staff be responsible for ensuring clients are represented by legal counsel prior to any court appearance or criminal charges. This representation is particularly critical when there is no next of kin available.

The Department of Social Services agreed with my recommendation and further agreed to provide a specific memorandum to all of their staff, providing direction in this regard. The following memorandum was circulated to all District Managers and Community Living Division social workers:

> "As case managers, you are responsible to ensure that clients receive appropriate legal counsel when no family or guardian is available to assist them. When a client comes into conflict with the law on a criminal or civil matter, you must ensure that

he/she has access to appropriate legal representation through a Saskatchewan Legal Aid office or through private counsel, if a person's family so arranges. You must assist the client immediately upon learning he/she is about to be charged with a criminal offence.

Following this process will ensure that a client's legal rights are protected and prevent situations where a client becomes involved in the criminal justice system without benefit of legal counsel".

I was satisfied that this directive would help to prevent a recurrence of this particular situation. This should provide an additional measure of protection for persons with mental disabilities.

WORKERS' COMPENSATION BOARD

File No. – 88-16030-10-17

An unhappy customer of the Workers' Compensation Board called my office to complain that the Board would not provide him with any retraining or assist him in returning to the work force. His last employer had been a Provincial Crown Corporation and he also felt this Corporation should make a special effort to re-employ him. By the time the man called my office, he had been out of the work force for approximately eight years. He acknowledged that his injury included organic brain damage. The man was quite coherent in his initial presentation to my office, however subsequent correspondence was often confusing and occasionally disoriented.

My office agreed to investigate responsibility of the Workers' Compensation Board related to this individual. Initially, we declined to investigate the responsibility of the Crown Corporation to re-employ the man.

Review of the W.C.B. claim file confirmed a rather tragic case. This man suffered a severe electric shock in 1964 when he was only 23 years of age. He had made an exceptionally good recovery and within less than one year, had resumed full-time employment. No permanent disability was assessed at that time.

It was not until 1971 that the man began to have more difficulty. The man was under psychiatric treatment and after considerable medical investigation, it was determined that his problems dated

back to the electric shock in 1964. A permanent disability was assessed at 45% in 1973.

Once again, the injured worker made a good recovery and was successful in resuming employment with the Crown Corporation until he was eventually terminated in 1979.

It was considered that further deterioration had occurred and as of 1979, he was assessed a 100% permanent disability related to brain injury.

As the level of disability was clearly accepted at 100%, one would have thought that there would be no further issues to dispute. In this particular case the assumption was incorrect, as the wage base upon which his benefits were calculated remained critical.

Despite several favourable amendments to **The Workers' Compensation Act** from 1964 to 1980, this injured worker's entitlement to W.C.B. benefits in 1988 were still based upon his 1964 earnings. The various legislative amendments had improved this wage base considerably, but the fact remained that the wage was based upon 1964 earnings and not his most recent earnings at the Crown Corporation in 1979.

My investigator was concerned about this calculation of benefits and approached the Claims Director at the W.C.B. to discuss the situation. The Claims Director was personally familiar with the injured worker and was quite receptive to the arguments raised by my investigator. Nonetheless, the Claims Director insisted that the benefits being paid by the W.C.B. were in fact in accordance with legislation.

My staff member was inclined to agree that, technically, legislation had probably been followed. However, we were concerned about the overall fairness and justice of this injured worker's situation. After some discussion, the Claims Director agreed to conduct an indepth review of the man's entitlement.

The review conducted by the W.C.B. turned out to be quite extensive and eventually required the personal involvement of the Board Members.

In this case, the waiting turned out to be well worth while. The Board Members eventually agreed to recalculate the injured worker's

entitlement based upon his most recent earnings, those of 1979. The result was a retroactive payment of almost $70,000, with increased monthly entitlement of approximately $460. This increased entitlement could remain payable until the man reached age 65.

The positive result in this instance was most encouraging. The result had been accomplished without any formal recommendation by my office and with complete co-operation of the Board Members and their staff. The initial decision taken by the W.C.B. was not technically wrong, but the W.C.B. eventually agreed that the overall "merits and justice" of this case demanded a better solution.

Although the Board Members certainly do not accept all of my recommendations, this is one example of the overall positive relationship between the Workers' Compensation Board and my office.

File No. – 89-16030-00-58

In May of 1989 a complaint was received from a seventy-five year old widow regarding the amount of the pension which she received from the Workers' Compensation Board. She argued that she had not received any increase in her pension for several years, despite the fact that the cost of living had risen considerably. She believed that the Workers' Compensation Board should increase her pension beyond the $530 which she was receiving.

In investigating this complaint, my office examined not only the deceased worker's claim file with the Workers' Compensation Board, but also legislation governing widow's pensions. The amount of pension which this widow was receiving, $530 per month, had been established by legislation.

At the same time, our investigation also confirmed that in June of 1982, a report of the Workers' Compensation Act Review Committee, had recommended an increase in the pensions paid to both injured workers and dependent spouses and children, under legislation which existed prior to 1979. **The Workers' Compensation Act** of 1979 had implemented the wage loss system and thus these same problems were not occurring with respect to workers injured after the new legislation.

To my knowledge, this particular recommendation of the Workers' Compensation Act Review Committee (1982) was not addressed in subsequent legislative change.

In considering this case, I was satisfied that the widow's pension had been calculated in accordance with existing legislation and I was unable to make any specific recommendation on her behalf. At the same time, I did bring the matter to the attention of the Workers' Compensation Board in terms of potential legislative change for the future. It is my understanding that the group of widows affected by this minimum pension is not large. Nonetheless, even modest increases in their pensions would assist them in meeting the rising cost of living.

The Workers' Compensation Board responded indicating that while the issue had been addressed by two Committees of Review without change they agreed to ask that this topic be once again considered by the new Committee of Review when it is called.

File No. — 89-16030-00-53

The introduction of new information to a dispute can make what seemed a fair decision appear unfair. Government departments or agencies presented with new information are usually happy to reconsider their decisions. The following is a case in point.

The complainant had entered into a babysitting agreement with a woman who had been injured at work and needed someone to babysit her children for two weeks. The complainant had understood through a conversation with a Claims Officer from Workers' Compensation Board that the Board would be paying the injured woman $60 per day for babysitting. The Board policy, however, was to pay only for "additional" expenses incurred as a result of work-related injury. Since the injured woman had been paying a babysitter $25 per day while she was working, the Board would only pay $35 per day "additional" expenses. The injured woman only paid the complainant the $35 per day she received from the Board.

Although this looked like an issue that should have been settled between the complainant and the injured woman, we agreed to make some inquiries.

The first thing we discovered was that the problem stemmed from a misunderstanding between the Claims Officer and the complainant. The complainant insisted the Claims Officer had told her the Board would be paying $60 per day for babysitting expenses. The Claims Officer contended that he had told the complainant that the Board would only pay for additional expenses. We could find no evidence to support either contention. Since the Claims Officer would have been following Board policy, there seemed to be no good reason to challenge his assertions.

In a conversation with the complainant we discovered that the Department of Social Services had been paying the injured woman $25 per day for babysitting costs while she was working. This new information required an interpretation of the Board's policy of only paying for "additional" expenses. If Social Services was paying for the injured woman's babysitting costs while she was working, then perhaps the Board should not have taken those costs into account when calculating the injured woman's entitlement, since the costs were not paid out of her insured earnings.

The Board had not known that the injured woman's babysitting costs were being paid by Social Services. At first, the Board was not quite sure how to proceed since this was a situation without precedent. In the end, the Board decided that the injured woman was entitled to full payment for babysitting costs. Accordingly, the Board drafted a cheque and mailed it to the complainant.

PART III

STATISTICS

PART III

STATISTICS

MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS OR AGENCIES – 1989

Abbey	2	Denare Beach	1
Alameda	1	Dundurn	1
Asquith	2	Dysart	2
Assiniboia	1		
Avonlea	2	Eastend	1
		Esterhazy	4
Balcarres	1	Estevan	9
Battleford	2	Fife Lake	1
Beechy	1	Foam Lake	2
Belle Plain	1	Fort Qu'Appelle	8
Bienfait	1	Fosston	1
Big River	6		
Birch Hills	2	Glaslyn	1
Birsay	1	Goodeve	1
Bracken	1	Grandora	1
Bredenbury	1	Grayson	1
Broadview	5	Green Lake	1
Broderick	1	Griffin	1
Buffalo Narrows	2	Gronlid	1
Bushell Park	1	Gull Lake	2
		Hague	1
Cadillac	1	Haywarden	1
Calder	1	Hazenmore	1
Canora	3	Hepburn	1
Carlyle	1	Holdfast	1
Carnduff	1	Hudson Bay	1
Caron	1	Humboldt	5
Carrot River	1		
Central Butte	1	Ile-a-la-Crosse	2
Chaplin	2	Indian Head	3
Choiceland	1		
Christopher Lake	1	Jansen	1
Cochin	1	Kamsack	3
Conquest	1	Kelvington	1
Craven	3	Kendal	1
Creighton	4	Kerrobert	2
Cupar	3	Khedive	1
Cut Knife	1	Kipling	1
		Kyle	1
Dalmeny	4		
Darcy Station	1	Lafleche	1
Davidson	1	La Loche	2
Delisle	1	La Ronge	4
Debden	1	Langenburg	1

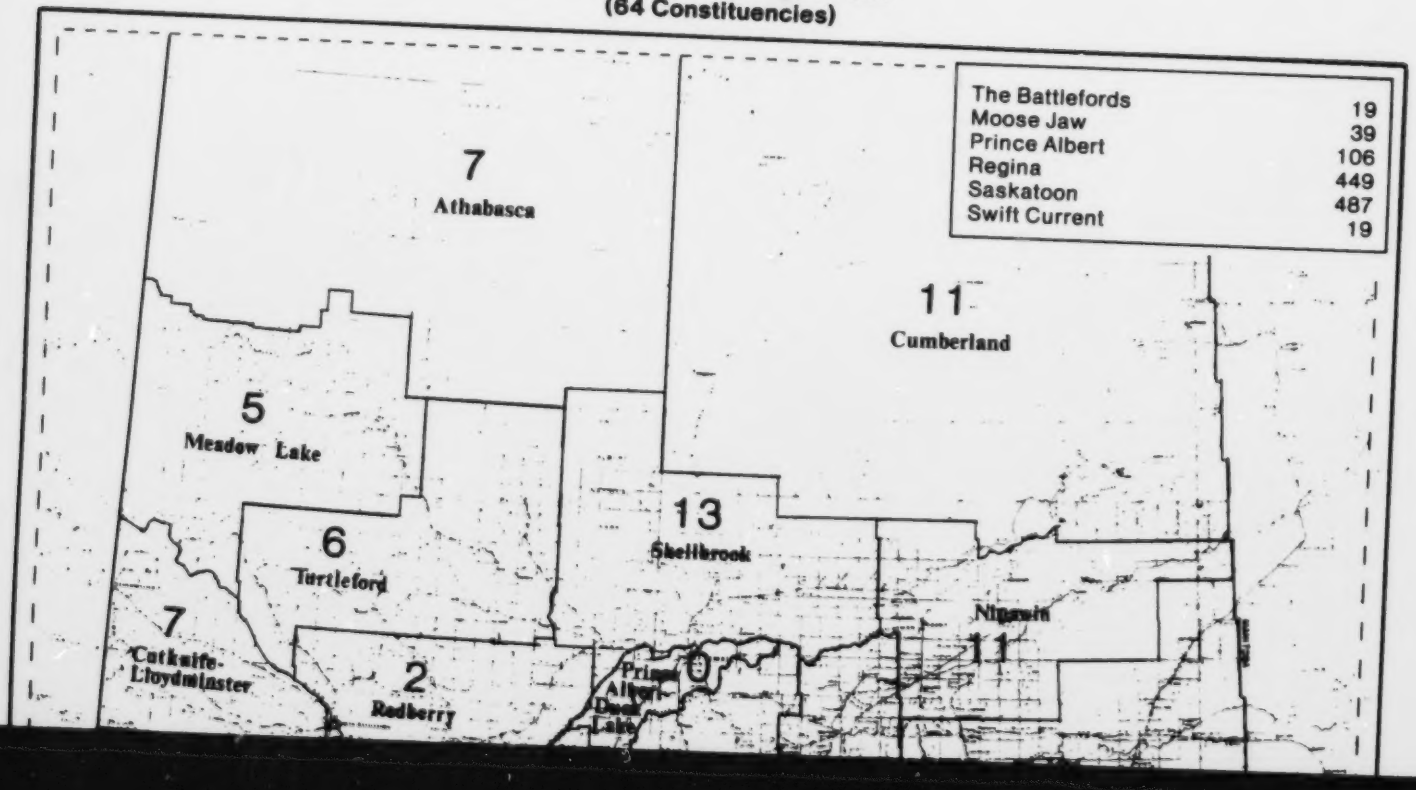
Langham	2
Lanigan	1
Lebret	1
Lipton	1
Lloydminster	4
Loon Lake	1
Lumsden	1
Maidstone	2
Mankota	2
Manor	2
Mantario	1
Maple Creek	6
Martensville	2
Maryfield	2
Mazenod	1
Meadow Lake	1
Meath Park	1
Melfort	7
Melville	4
Midale	3
Middle Lake	1
Montmarte	1
Moose Jaw	39
Moosomin	12
Mossbank	3
Muenster	1
Naicam	1
Neville	1
Nipawin	7
Nokomis	1
Norquay	3
North Battleford	17
Osler	1
Oxbow	3
Pelly	1
Pierceland	1
Pilot Butte	1
Plenty	1
Ponteix	1
Porcupine Plain	2
Prairie View	2
Preeceville	1
Primate	1
Prince Albert	106
Prud'Homme	1
Qu'Appelle	1
Radville	1
Redvers	1
Regina	449
Rocanville	3
Rose Valley	1
Rosetown	1
Rush Lake	1
St. Walburg	2
Sandy Bay	2
Saskatoon	487
Sceptre	1
Semans	1
Shaunavon	2
Shellbrook	6
Silton	2
Smeaton	2
Southey	2
Springside	1
Spruce Home	2
Spy Hill	2
Star City	1
Stoughton	1
Strasbourg	2
Sturgis	1
Swift Current	19
Theodore	1
Tisdale	3
Togo	2
Tuxford	1
Tyvan	2
Vanguard	1
Vawn	1
Viceroy	1
Viscount	1
Wadena	3
Waldheim	1
Wapella	1
Warman	3
Watrous	1
Weldon	1
Weyburn	8
White City	5
White Fox	2
Willow Bunch	1
Willow Brook	2
Wilkie	1
Wynyard	3
Yellow Grass	1
Yorkton	17
Young	2
Zealandia	1
Zenon Park	1

Out of Province

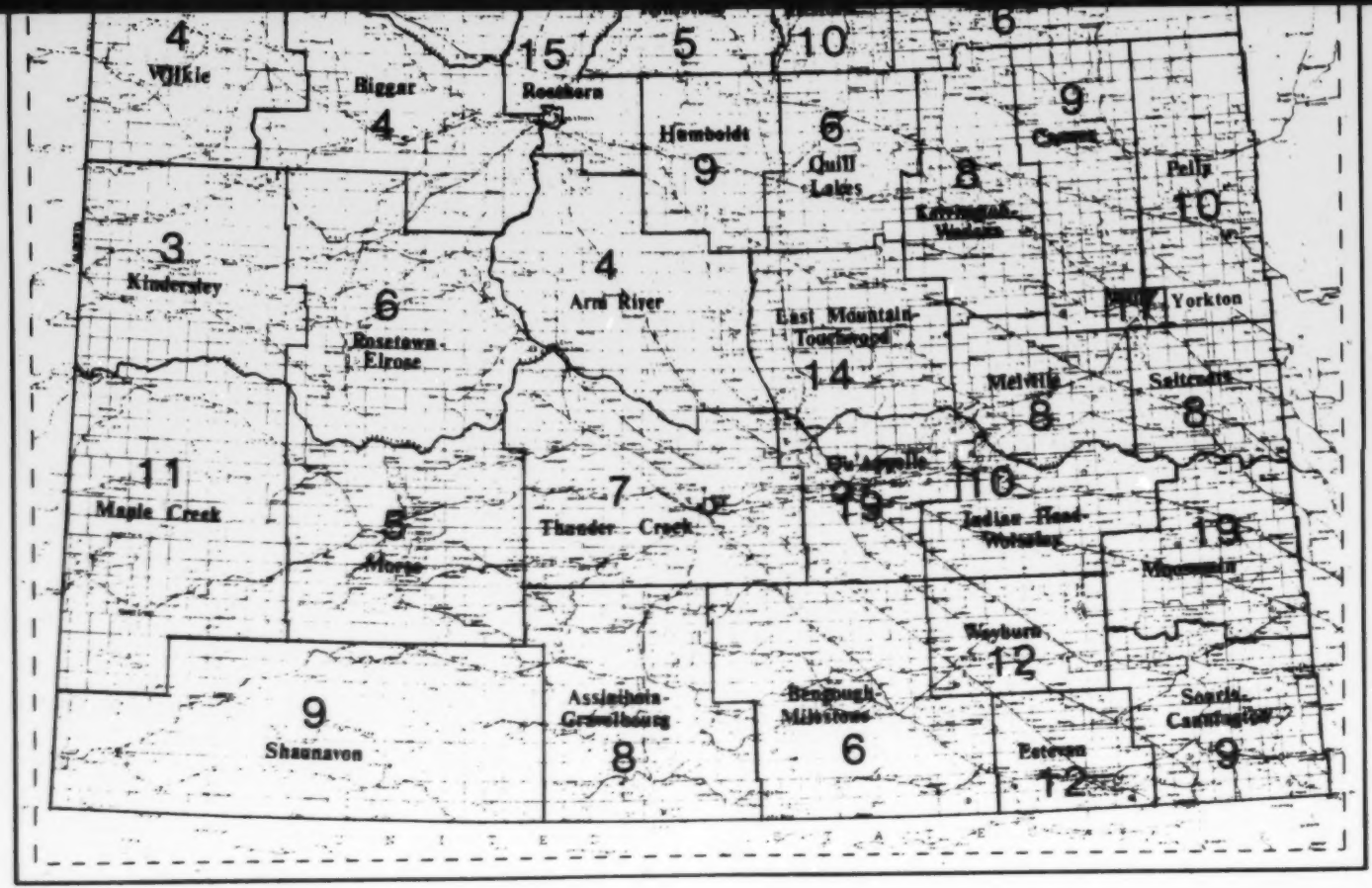
Alberta	18
British Columbia	10
Manitoba	8
North West Territories	1
Ontario	7

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1989

PROVINCIAL CONSTITUENCIES
The Representation Act 1981
(64 Constituencies)



The Battlefords	19
Moose Jaw	39
Prince Albert	106
Regina	449
Saskatoon	487
Swift Current	19


4
Wilkie
15
Rosthern
5
10
6
Biggar
4
Humboldt
9
6
Quill Lakes
8
9
Canora
Preeceville
10
3
Kindersley
4
Arm River
6
Rosetown-Elrose
East Mountain-Touchwood
14
Melville
8
Saltcoats
8
11
Maple Creek
5
Morse
7
Thunder Creek
Indian Head-Wolseley
19
Weyburn
12
9
Shaunavon
Assiniboia-Gravelbourg
8
Bengough-Milestone
6
Estevan
12
Souris-Cannington
9

COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1989

Department — Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Agriculture								
— General	1000-10	—	—	—	1	1	—	2
— Lands Branch*	1000-30	—	—	—	—	1	—	1
Agricultural Credit Corporation of Saskatchewan	1060-00	—	—	—	—	2	—	2
Justice								
— General	2000-10	3	—	1	1	4	—	9
— Court Services	2000-20	1	1	1	—	3	—	6
— Corrections	2000-30	79	6	58	12	140	—	295
— Maintenance Enforcement Office	2000-40	3	—	—	1	12	—	16
Land Titles	2020-00	—	—	—	1	—	—	1
Public Trustee	2030-00	1	—	1	1	5	—	8
Criminal Injuries Compensation Board	2040-00	—	—	1	—	1	—	2
Saskatchewan Police Commission	2070-00	1	—	—	—	1	—	2
Saskatchewan Human Rights Commission	2100-00	—	—	—	—	3	—	3
Office of the Rentalsman	2200-00	2	—	3	1	7	—	13
Provincial Mediation Board	2300-00	—	—	—	—	1	—	1
Rent Appeal Commission	2400-00	—	—	1	—	4	—	5
Saskatchewan Securities Commission	2600-00	—	—	—	—	1	—	1
Consumer and Commercial Affairs								
— General	3000-10	2	—	1	1	—	—	4
— Corporations Branch	3000-20	1	—	—	—	5	—	6
— Insurance and Real Estate Branch	3000-30	—	—	—	—	2	—	2
— Licensing and Investigations Branch	3000-40	1	—	—	1	—	—	2
Agricultural Implements Board	3010-00	—	—	—	—	1	—	1
Saskatchewan Gaming Commission	3030-00	—	—	—	—	1	—	1
Education								
— General	7000-10	6	—	2	1	17	—	26
— SIAST	7000-20	—	—	1	1	4	—	6

— Apprenticeship and Standards Branch	7000-30	—	—	1	—	—	—	1
Teacher's Superannuation Board	7030-00	—	—	1	—	1	—	2
Environment and Public Safety								
— General	8000-10	—	—	1	—	3	—	4
Saskatchewan Water Corporation	8030-00	1	—	—	—	6	—	7
Finance								
— General	11000-10	2	—	2	2	2	—	8
— Revenue Division	11000-30	1	—	—	—	2	—	3
— Public Employees Benefits Agency	11000-40	—	—	1	1	—	—	2
— Municipal Employees Superannuation Commission	11000-50	—	—	1	—	1	—	2
Saskatchewan Property Management Corporation								
— General	12000-10	1	—	1	—	1	—	3
Health								
— General	13000-10	3	—	1	—	6	—	10
— Mental Health	13000-20	3	—	1	—	6	—	10
— Saskatchewan Hospital Services Plan	13000-60	—	—	—	—	1	—	1
— Saskatchewan Prescription Drug Plan	13000-70	—	—	—	—	1	—	1
Saskatchewan Alcohol and Drug Abuse Commission	13010-00	—	—	—	—	1	—	1
Saskatchewan Medical Care Insurance Commission	13020-00	—	—	2	—	—	—	2
South Saskatchewan Hospital Centre	13040-00	—	—	—	—	2	—	2
Highways and Transportation								
— Highway Traffic Board	14010-10	—	—	—	—	2	—	2
Human Resources, Labour and Employment								
— General	16000-10	—	—	—	—	2	—	2
— Worker's Advocate	16000-20	—	—	—	—	2	—	2
— Labour Standards	16000-40	1	1	3	—	12	—	17
Labour Relations Board	16010-00	—	—	—	—	1	—	1
Workers' Compensation Board	16030-00	4	—	2	—	98	—	104

Department – Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Indian and Native Affairs Secretariat	16080-00	–	–	–	1	–	–	1
Rural Development								
– General	18000-10	–	–	1	–	–	–	1
Saskatchewan Crop Insurance Corporation	18030-00	–	–	1	–	–	–	1
Municipal Housing Authority**	18200-00	–	–	–	–	2	–	2
Lands Branch*	18300-00	1	–	–	–	–	–	1
Saskatchewan Housing Corporation	19050-00	2	–	3	–	7	–	12
Saskatchewan Municipal Board	19060-00	–	–	–	–	3	–	3
Local Housing Authority	19070-00	–	–	–	–	5	–	5
Saskatchewan Research Council	21000-00	–	–	–	–	2	–	2
Parks, Recreation and Culture***								
– General	22000-10	–	–	5	–	4	–	9
New Careers Corporation	22040-00	–	–	1	–	2	–	3
Social Services								
– General	23000-10	2	–	2	–	8	–	12
– Community and Personal Services	23000-20	7	–	2	2	15	–	26
– Regional Services Division	23000-40	75	–	2	1	295	–	373
Social Services Appeal Board (Provincial)	23020-00	1	–	1	–	4	–	6
Saskatchewan Legal Aid Commission	23030-00	–	–	1	1	15	–	17
Public Service Commission								
– General	24000-10	–	–	1	–	–	–	1
Saskatchewan Telecommunications								
– General	25000-10	9	3	5	1	21	–	39
Saskatchewan Government Insurance								
– General	26000-10	3	–	3	2	6	–	14
– Motor Licensing	26000-20	3	–	1	–	12	–	16
– Claims	26000-30	19	2	15	7	86	–	129
Saskatchewan Power Corporation								
– General	27000-10	39	1	4	1	48	–	93
Liquor Licensing Commission	30030-00	–	–	–	–	1	–	1
Potash Corporation of Saskatchewan	32000-00	–	–	–	–	1	–	1

Saskatchewan Development Fund Corporation	40000-10	–	–	1	–	–	–	1
Credit Uniton Deposit Guarantee Corporation	41000-00	–	–	1	–	–	–	1
TOTALS		282	49	207	40	924	10	1,512

* Please note that some agencies may appear more than once due to the Government re-organization which occurred.
** Department name changed to Urban Housing Authority.
*** Department name changed to Parks and Renewable Resources.

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1989

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1977	–	–	–	–	–	1	1
1978	–	–	–	–	–	1	1
1979	–	–	–	–	–	2	2
1984	–	–	–	–	–	3	3
1985	–	1	–	2	–	5	8
1986	2	4	–	6	–	5	17
1987	–	13	6	10	–	4	33
1988	6	17	4	53	–	5	85
1989	274	14	–	136	40	898	1,362
	282	49	10	207	40	924	1,512

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1988

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1975	–	–	–	–	–	–	–
1979	–	–	–	–	–	1	1
1980	–	–	1	–	–	–	1
1981	–	1	1	–	–	–	2
1982	–	–	1	–	–	–	1
1983	–	–	1	–	–	1	2
1984	–	5	4	3	–	6	18
1985	1	8	6	4	1	6	26
1986	4	4	9	13	–	9	39
1987	7	42	13	57	–	7	126
1988	272	32	18	172	17	872	1,383
	284	92	53	249	18	902	1,599

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1987

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1975	–	–	–	–	–	2	2
1979	–	1	–	–	–	5	6
1980	–	–	–	–	–	3	3
1981	–	–	1	–	–	3	4
1982	–	–	–	1	–	4	5
1983	–	1	1	8	1	3	14
1984	–	2	4	12	3	12	33
1985	4	12	13	38	–	9	76
1986	6	33	9	89	–	12	149
1987	161	23	–	103	8	745	1,040
	171	72	28	251	12	798	1,332

TOTAL COMPLAINTS RECEIVED – 1989

	Against Saskatchewan Departments and Agencies	Not Against Saskatchewan Departments and Agencies	Total
January	109	137	246
February	97	108	205
March	184	130	314
April	134	104	238
May	176	137	313
June	124	145	269
July	126	122	248
August	96	128	224
September	102	153	255
October	93	138	231
November	123	143	266
December	138	93	231
	1,502	1,538	3,040

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES
January 1 to December 31, 1989

Category	Number	%
Consumer	488	32
Federal	314	20
Local Government	114	7
Professional	50	3
Private	274	18
Courts/Legal	101	7
Family	26	2
Medical	31	2
Other	140	9
	1,538	100

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1989

Department – Agency Board and Commission	Department Code No.	Totals
Agriculture		
– General	1000-10	4
– Lands Branch*	1000-30	1
Agricultural Credit Corporation of Saskatchewan	1060-00	3
Justice		
– General	2000-10	10
– Court Services	2000-20	6
– Corrections	2000-30	308
– Maintenance Enforcement Office	2000-40	16
Land Titles	2020-00	1
Public Trustee	2030-00	8
Criminal Injuries Compensation Board	2040-00	3
Saskatchewan Police Commission	2070-00	2
Saskatchewan Human Rights Commission	2100-00	3
Office of the Rentalsman	2200-00	14
Provincial Mediation Board	2300-00	1
Rent Appeal Commission	2400-00	5
Saskatchewan Securities Commission	2600-00	1
Consumer and Commercial Affairs		
– General	3000-10	4
– Corporations Branch	3000-20	7
– Insurance and Real Estate Branch	3000-30	2
– Licensing and Investigations	3000-40	2
Agricultural Implements Board	3010-00	1
Saskatchewan Gaming Commission	3030-00	1
Education		
– General	7000-10	31
– SIAST	7000-20	10
– Apprenticeship and Standards	7000-30	1
Teacher's Superannuation Board	7030-00	2
Environment and Public Safety		
– General	8000-10	4
Saskatchewan Water Corporation	8030-00	10
Saskatchewan Water Appeal Board	8040-00	1
Finance		
– General	11000-10	8
– Revenue Division	11000-30	3
– Public Employees Benefits Agency	11000-40	5
– Municipal Employees Agency	11000-50	2
Saskatchewan Property Management Corporation		
– General	12000-10	3
Health		
– General	13000-10	17
– Mental Health	13000-20	1
– Saskatchewan Hospital Services Plan	13000-60	1
– Saskatchewan Prescription Drug Plan	13000-70	1

Department – Agency Board and Commission	Department Code No.	Totals
Saskatchewan Alcohol and Drug Abuse Commission	13010-00	1
Saskatchewan Medical Care Insurance Commission	13020-00	5
South Saskatchewan Hospital Centre	13040-00	3
Highways and Transportation		
– General	14000-10	7
Highway Traffic Board	14010-00	2
Human Resources, Labour and Employment		
– General	16000-10	2
– Worker's Advocate	16000-20	2
– Labour Standards	16000-40	19
– Occupational Health and Safety	16000-50	1
Labour Relations Board	16010-00	1
Workers' Compensation Board	16030-10	121
Indian and Native Affairs Secretariat	16080-00	1
Rural Development		
– General	18000-10	1
Saskatchewan Crop Insurance Corporation	18030-00	6
Municipal Housing Authority**	18200-00	2
Lands Branch*	18300-00	3
Saskatchewan Housing Corporation		
– General	19050-00	12
Saskatchewan Municipal Board	19060-00	4
Local Housing Authority	19070-00	5
Saskatchewan Research Council	21000-00	2
Parks, Recreation and Culture***		
– General	22000-10	12
New Careers Corporation	22040-00	5
Social Services		
– General	23000-10	16
– Community and Personal Services	23000-20	26
– Regional Services Division	23000-40	388
Social Services Appeal Board (Provincial)	23020-00	17
Saskatchewan Legal Aid Commission	23030-00	18
Public Service Commission	24000-10	1
Saskatchewan Telecommunications	25000-10	43
Saskatchewan Government Insurance		
– General	26000-10	16
– Motor Licensing	26000-20	21
– Claims	26000-30	139
Saskatchewan Power Corporation		
– General	27000-10	93
Liquor Licensing Commission	30030-00	1
Potash Corporation of Saskatchewan	32000-00	1
Saskatchewan Development Fund Corporation	40000-10	1
Credit Union Deposit Guarantee Corporation	41000-00	1
		1,502

* Please note that some agencies may appear more than once due to the Government re-organization which occurred.

** Department name changed to Urban Housing Authority.

*** Department name changed to Parks and Renewable Resources.

R.S.S. 1978

CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act.*

Interpretation

2. In this Act:

"agency of the government"

(*a*) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(*i*) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(*ii*) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

"department"

(*b*) "department" means a department or branch of the executive government of the province;

"minister"

(*c*) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension when Legislature not in session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(*a*) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(*b*) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application of certain Acts to Ombudsman and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

Oath of office

8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same

9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy

10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers

11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers, functions and duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(*a*) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

(*a*) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints to Ombudsman

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint ocurred. 1972, c. 87, s. 13.

Ombudsman not restricted by provisions of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

(*a*) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or

(*b*) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions on jurisdiction

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

(*a*) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;

(*b*) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

(*c*) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;

(*d*) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;

(*e*) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;

(*f*) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;

(*g*) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (*f*) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of jurisdiction to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

(*a*) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;

(*b*) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(*c*) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;

(*d*) in his opinion the circumstances of the case do not warrant investigation;

(*e*) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(*f*) during the course of an investigation it appears to him:

(*i*) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or

(*ii*) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

Notice of cessation etc. of investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

Ombudsman may require information and examine persons

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause *(f)* of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

(*a*) to furnish information to him; and

(*b*) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

(*a*) any person, other than a minister or a person mentioned in clause *(f)* of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(*b*) any complainant; and

(*c*) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

(*a*) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;

(*b*) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

(*a*) the deliberations of the Executive Council; or

(*b*) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

(*a*) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:

(*i*) contrary to law;

(*ii*) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(*iii*) based in whole or in part on a mistake of law or fact; or

(*iv*) wrong;

(*b*) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

(*i*) for an improper purpose;

(*ii*) on irrelevant grounds; or

(*iii*) on the taking into account of irrelevant considerations; or

(*c*) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(*a*) that a matter should be referred to the appropriate authority for further consideration;

(*b*) that an omission should be rectified;

(*c*) that a decision should be cancelled or varied;

(*d*) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(*e*) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(*f*) that reasons should be given for any decision, recommendation, act or omission; or

(*g*) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of proposed steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

Review of Ombudsman's decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings not subject to review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings against Ombudsman prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a braodcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of premises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

Report by Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

(*a*) generally to the exercise of his powers and the performance of his duties and functions under this Act; or

(*b*) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for guidance

31.—(1) The Assembly may:

(*a*) of its own volition; or

(*b*) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and penalties

32. Any person who:

(*a*) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

(*b*) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(*c*) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding $500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney General may intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to provide additional remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.